Supreme Court, U.S.
FILED

10-924 NOV 12 2010

OFFICE OF THE CLERK

No.

In The

Supreme Court of The United States

Kenneth J Taggart, Pro Se

Petitioner

v.

Chase Bank USA N.A.,
Chase Home Finance, LLC &
JP Morgan Chase Bank

Respondents

On Petition For Writ Of Certiorari To The United States Court of Appeals For the Third Circuit

PETITION FOR WRIT OF CERTIORARI

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Questions Presented for Review

1) Should a Pro Se Plaintiff be held to the same standard of Res Judicata as lawyers when he fails to recognize all potential causes of action at the outset of litigation?

2) Does a "Request For Leave" to amend a complaint have to be a "Formal Motion" for a "Pro Se Litigant"? Can it be requested in a brief or other form of request?

Brief Introductory Statement

A Pro Se litigant has not recognized all possible Legal theories at the outset of the litigation in a predatory and sub-prime mortgage case. The court(s) *failed to interpret Pro Se case law* to provide relief on any possible theory as required, *Hill v. GFC Loan Co.* 2000 U.S. Dist Lexis 4345 (N.D. ILL Feb 15,2000), and dismissed the case.

The Pro Se plaintiff then recognizes that other legal theories exist and files a 2nd complaint when this is discovered; The case then gets dismissed by the court(s) citing Res Judicata and the Pro Se Plaintiff is then unable to assert rights when it is discovered.

This is disenfranchising borrowers who have already been victims of sub-prime and predatory lending.

Parties To The Proceedings

The following individuals and entities are parties in the court below.

Kenneth J Taggart, Pro Se

Petitioner

Chase Bank USA N.A. and Chase Home Finance, LLC
Also improperly pled as JP Morgan Chase Bank N.A. d/b/a
Chase Home finance, LLC,

Respondents

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BRIEF FOR PETITIONER

Petitioner , Kenneth J Taggart respectfully requests that the court reverse the judgment of The United States Court of Appeals for the Third Circuit on case #09-4509

OPINIONS

The order of The United States Court of Appeals for the Third Circuit is dated June 14,2010. The order denying petition rehearing and rehearing en banc.
(Appendix 9-16)

The judgment of The United States Court of Appeals for the Third Circuit is dated April 14, 2010.
(Appendix 7-8)

The Third Circuit Courts Opinion dated April 14, 2010. (Appendix 5-6)

The order from The United States District Court of Eastern Pennsylvania dated October 29,2009.
(Appendix 2-4)

The opinion/memorandum from The United States District Court of Eastern Pennsylvania dated October 29, 2009. (Appendix 1)

JURISDICTION

The judgment of the court of appeals was entered on April 14,2010. An extension was requested and granted by the U.S. Supreme Court extending time to file by November 11,2010; since November 11,2010 is a Federal holiday and The united states Post Office is closed, It is timely mailed on November 12,2010, the next business day.

The Petition was sent via U.S. Postal Service on November 12, 2010. The petition was returned and a request was made by the clerk to have it returned January 15, 2011.

SUMMARY OF CASE

This case involves a Pro Se litigant who filed a complaint against predatory and sub-prime lenders for, among other things, Truth-in Lending and Real Estate Settlement Procedures Act violations. When it was discovered by pro Se Plaintiff that other legal theories exist and other laws were violated, he requested complaint be amended; The request was never acknowledged and the case was dismissed.

The Plaintiff filed a 2nd complaint asserting these legal theories and cited the laws that were violated. The court dismissed the complaint, including claims that happened after the original complaint had been filed, citing "Res Judicata". The Pro Se Litigant was denied a fair trial by case law and violated the plaintiff's U.S. Constitutional rights of fair trial.

A. ***PROCEDURAL HISTORY***

On March 5,2009, Appellant, Pro Se, commenced an action in Philadelphia Municipal Court asserting Truth-In Lending claims regarding his *mortgage origination process* and *mortgage closing* July 20,2005. Appellees later moved the case to District Court for the Eastern District of Pennsylvania.

On April 16,2009 Apellees filed a " Motion to Dismiss" because the TILA 's claims are time-barred. Appellees also asserted Appellant's rescission claims were not actionable under TILA.

On May 5,2009, the District Court converted the Motion for a motion for summary judgment, *without waiting for a timely response from appellant,* and then permitted appellant thirty days to "*if possible demonstrate* why the action was not filed too late (for example, if equitable Tolling applies)" (*Note: If Possible)*

The appellant requested on May 7,2009 in a brief to The court that the complaint be amended and a status conference be held, the court never responded tothe request. A Pro Se litigant's failure to recognize all potential causes of action at the outset does not demonstrate bad faith *Raikhy v. AMC computer Corp., 01 Civ. 707,202 U.S. Dist LEXIS 11940, *4 (July 2,2002*); There is no indication that Appellant wanted to amend complaint in bad faith.

A Pro Se Plaintiff need not cite a particular law or Rule when filing a motion or making a request. *Under Rule 15 ,FRCP* leave to amend, shall be freely given when justice so requires.

Franks v. Ross, 313. 3rd 184, 192 (4th Cir 2002) (quoting Fed R Civ. P. 15(a). The Supreme Court has declared that " this mandate beheaded" *Forman v. Davis, 371 U.S. 178, 182 (1962).* "The law is well settled " that leave to amend a pleading should be denied *only* when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile. *Edwards v City of Goldsboro, 178 F. 3rd 231, 242 (4th cir. 1999) (quoting Johnson v. Oroweat Foods Co., 785 F 2nd 503, 509 (4th Cir. 1986)(emphasis in original)*

While Fed *Rule 15* places leave to amend within the sound discretion of the trial court, the court must remain guided as to the underlying purpose of Rule 15 to facilitate the decision on the merits, rather than the pleadings or technicalities. *United States v Webb, 655 F.2nd 977,979 (9th Cir 1981); see also Conley v. Gibson, 355 U.S. 41,48,78 S Ct. 99, 103, 2 L. Ed. 2d 80 (1957)* A Pro Se litigant must be given leave to amend his or her complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment *Broughton v. Cutter laboratories, 622 F 2d 458, 460(9th Cir 1980)*

The rule favoring liberality in amendments to pleadings is particularly important for the Pro Se litigant. The Pro se litigant is presumably unskilled in the law and far more prone to making errors in pleading than the person who benefits from the representation of council. The Supreme Court has held that allegations of a Pro Se complaint are held a less stringent standards than formal pleadings drafted by lawyers. *Haines v. Kerner, 404 U.S. 519, 520-21, 92 S. Ct. 594,595-96,30 L. Ed. 2nd 652 (1972) (Per Curim); see also Maurer v. Individually and as Members of Los Angeles*

county Sheriff's Dept., 691 F. 2nd 434,437 (9th Cir 1982); Gillespie v. Civiletti, 629 F 2nd 637, 640 (9th Cir. 1980). The court dismissed the case "with Prejudice on June 15,2009 . The appellant filed a 2nd complaint on July 17,2009 in The Municipal Court In Philadelphia against Appellees; The Appellees removed the complaint to the District Court of Eastern Pennsylvania. complaint was filed. *Knowledge of the laws and/or violations were not known as of the date the 1st complaint was filed.*

There was Flawed Procedure: The procedure by The Honorable Judge Fullam as this case is not consistent with the Procedure in a similar case now pending with The Honorable Judge McGlaughlin in The District Court of Eastern Pennsylvania *(Taggart v Norwest Mortgage et al – cv -09-1281).* The cases have similar claims and were both removed about the same time to District Court of Eastern Pennsylvania. Claims should not be dismissed or decided by Rules of Local Procedure; Evidence supports that procedure this case is inconsistent with similar cases in the same court. Appellant, Taggart, was granted a right to amend complaint a status conference, and instructions from nearly identical case in the same court with different defendant and different Judge (*Taggart v Norwest Mortgage Et Al*). pending in district court of Eastern Pennsylvania.

B . Argument

The District court failed to construe the complaint liberally in favor of the party in reviewing a Pro Se complaint. *Rosemary A. Gilroy v Ameriquest Mortgage Company et al. Fn1*

The appellant requested to amend the original complaint on May 7,2009 to include additional violations that were discovered since the original complaint was filed. Since the appellant is Pro Se and cannot afford an attorney, the appellant was not aware of the other violations by Appellee until a further review of the laws and file. The Appellant at that time made a request to amend the complaint. The request to amend the complaint was never addressed and the case was "Dismissed with Prejudice". *FRCP Rule 15 (a) (2) & Rule 60 provides plaintiff to amend complaint when there is new information or discovery; The appellant made the request to amend the complaint when it was discovered.*

Under FRCP *Rule 15, leave to amend, shall be freely given when justice so requires Franks v. Ross, 313. 3rd 184, 192 (4th Cir 2002) (quoting Fed R Civ. P. 15(a). The Supreme Court has declared that " this mandate beheaded" Forman v.Davis, 371 U.S. 178, 182 (1962).*__"The law is well settled " that leave to amend a pleading should be denied *only* when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile. *Edwards v City of Goldsboro, 178 F. 3rd 231, 242 (4th cir. 1999) (quoting Johnson v.Oroweat Foods Co., 785 F 2nd 503, 509 (4th Cir.1986)(emphasis in original).*

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Ct. 99, 103, 2 L. Ed. 2d 80 (1957) A Pro Se litigant must be given leave to amend his or her complaint unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment *Broughton v. Cutter laboratories, 622 F 2d 458, 460 (9th Cir 1980)*

The rule favoring liberality in amendments to pleadings is particularly important for the Pro Se litigant. The Pro se litigant is presumably unskilled in the law and far more prone to making errors in pleading than the person who benefits from the representation of council. The Supreme Court has held that allegations of a Pro Se complaint are held a less stringent standards Than formal pleadings drafted by lawyers. *Haines v. Kerner, 404 U.S. 519, 520-21, 92 S. Ct. 594,595-96,30 L. Ed. 2nd 652 (1972) (Per Curim); see also Maurer v. Individually and as Members of Los Angeles county Sheriff's Dept., 691 F. 2nd 434,437 (9th Cir 1982); Gillespie v. Civiletti, 629 F 2nd 637, 640 (9th Cir. 1980).*

The court erred when it did not provide appellant knowledge as to deficient pleadings that could have sited other laws including that had equitable tolling and state laws with longer statute of limitations, *B Platsky v. CIA 953 F.2ND 252628 (2ND CIR 1991).*_ Specific violations do not have to be alleged with particularity. *Brown v.Mortgage Star. 194 F. Supp 2nd 273 (S.D. W Va 2002).*Pro Se Plaintiff need not specify a specific statute or regulations that entitle him to relief; The court will examine complaint for relief on any possible theory, *Hill v. GFC Loan Co. 2000 U.S. Dist Lexis 4345 (N.D. ILL Feb 15,2000).*

1. District court failed to allow Plaintiff to Amend Original Complaint

District court failed to allow plaintiff to amend 1st complaint. Federal Rules of Civil Procedure allow for a complaint to be amended when there is a new discovery of law or additional evidence. *The plaintiff is not an attorney and did not know at the time the initial law suit was filed that other laws were broken, only that there was fraud involved. FRCP Rule 15 (a) (2) or Rule 60 The court should freely give leave when justice so requires.*

2. District court did not provide Specific Instructions

The *district court erred in not providing specific enough instruction to appellant on how to correct deficient pleadings in 1st complaint*

a) The court provided that " the plaintiff provide (if possible) why equitable tolling applies" , they did not specify that it was important at the time or even necessary at that time; *"Court errs if court dismisses Pro Se litigant without instruction of how pleadings are deficient and how to repair pleadings" .*

b) The court should have also shown that the pleadings were deficient as to state laws (or at lease dismissed without prejudice as to state laws) as the court will examine complaint on any possible theory, Hill v. GFC Loan Co. 2000 U.S. Dist. Lexus 4345 (N.D. ILL. Feb15,2000). No *instructions to amend on other possible theory were provided.*

3. Inconsistent Court Procedure

Was There was Flawed Procedure: The procedure By The Honorable Judge Fullam as this case is not consistent with the Procedure in a similar case now pending with The Honorable Judge McGlaughlin in The District Court of Eastern Pennsylvania *(Taggart v Norwest Mortgage et al – cv -09-1281).* The cases have similar claims and were both removed about the same time to District Court of Eastern Pennsylvania. Claims should not be dismissed or decided By Rules of Local Procedure; Evidence supports that procedure this case is inconsistent with similar cases in the same court.

C. LEGAL ANALYSIS

1. Insufficient Pro Se Instructions

The court did not provide Pro Se Plaintiff with adequate instructions on procedure, did not acknowledge request for status conference or to amend complaint *when requested.*

2. Refused Pro Se Plaintiff , "Leave", to Amend Original Complaint

Appellants Pro Se rights were violated Pro Se procedures according to case law as noted were not followed. District court failed to follow *FRCP Rule 60 & Rule 15 (a) (2)* to allow appellant to amend complaint. It became apparent that other laws were violated after the original complaint. District court also failed to allow the right to appellant to file and future claims of discovery. This is an injustice to a Pro Se Plaintiff. Under *Rule 15*, leave to amend,

shall be freely given when justice so requires *Franks v. Ross, 313. 3rd 184, 192 (4th Cir 2002) (quoting Fed R Civ. P. 15(a). The Supreme Court has declared that "this mandate be headed" Forman v. Davis,371 U.S. 178, 182 (1962).* "The law is well settled " that leave to amend a pleading should be denied *only* when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile. *Edwards v City of Goldsboro, 178 F. 3rd 231, 242 (4th cir. 1999) (quotingJohnson v. Oroweat Foods Co., 785 F 2nd 503, 509 (4th Cir. 1986) (emphasis in original)*

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3. The procedure was flawed and Inconsistent

The procedure in this case was flawed and not consistent within the Court and Rules in The District Court of Eastern Pennsylvania. Case law supports that a case should not be defeated due to local Rules.

4. Violated Constitutional Rights to Fair Trial

Plaintiff was denied Constitutional rights to file a complaint against Defendant for subsequent violations of the law. The counts were Dismissed when they were subsequent violations.

Conclusion

The appellant was denied the right to amend original complaint and denied the right to file a complaint for subsequent actions that occurred after the original complaint was filed or would have known about such violations. The appellant is a Pro Se plaintiff that cannot afford an attorney. The appellant filed a complaint that contained violations known at the time of the compliant. After the complaint was filed, appellant further reviewed the file and completed more research to reveal more violations. When appellant requested that the complaint be amended and a status conference be held, the court did not even respond to appellants request. *The court indicated that "The Plaintiff (appellant) may have had a claim against someone" yet failed to allow an amended complaint.*

The district court did not follow proper procedure as noted and violated the Constitutional Rights of the appellant by denying him the right to amend the Complaint as provid-

end by law or file a new complaint for subsequent violations of the law. The court did not examine the complaint for relief on any possible theory as required *Hill v. GFC Loan Co. 2000 U.S. Dist Lexis 4345 (N.D. ILL Feb15,2000).* District court failed to construe the complaint liberally in favor of the party in reviewing a Pro Se complaint. *Rosemary A. Gilroy v Ameriquest Mortgage Company et al . Fn1*

This case should be remanded back to the district court.

Respectfully submitted,

November 10 , 2010

Kenneth J Taggart
45 Heron Rd
Holland, Pa 18966

Appl

IN THE UNITED STATATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH J. TAGGART	:	CIVIL ACTION
	:	
v.	:	
	:	
CHASE BANK USA, N.A. and	:	
J.P. MORGAN CHASE BANK N.A.	:	
d/b/a CHASE HOME FINANCE,LLC	:	NO. 09-cv-03761-JF

ORDER

AND NOW, this 29th day of October 2009, upon Consideration of the defendants' Motion to dismiss, and Plaintiff's response, IT IS ORDERED:

1. The defendants' motion is GRANTED. This action Is DISMISSED with prejudice.

2. The Clerk is directed to close the file.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.

App 2

IN THE UNITED STATATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH J. TAGGART	:	CIVIL ACTION
	:	
v.	:	
	:	
CHASE BANK USA, N.A. and	:	
J.P. MORGAN CHASE BANK N.A.	:	
d/b/a CHASE HOME FINANCE,LLC	:	NO. 09-cv-03761-JF

MEMORANDUM

Fullam, Sr. J. October 29,2009

This is the second action brought by the pro se plaintiff, Kenneth J Taggart,regarding a 2005 mortgage and loan. The first action, Taggart v. Chase bank USA, Civil Action No. 09-1533 (E.D. Pa.), was dismissed on June 15, 2009, because the statute of limitations barred the plaintiff's claim. The plaintiff has appealed that dismissal, and the appeal is pending.

Approximately a month after dismissal, the plaintiff

filed a new complaint in the Philadelphia Municipal Court. The defendants removed the case to this Court and filed a motion to dismiss, on the grounds that *res judicata* bars the complaint, and that no viable claim has been stated. A comparison of the two complaints readily reveals that although the plaintiff asserts different causes of action, both lawsuits concern the same mortgage and loan transaction, and any claims for relief should have been raised in the first action (although, as in the first action, the defendants persuasively argue that no viable claim has been stated). In opposing the motion, the plaintiff refers to the Rule of Civil Procedure 60 (b), but that rule does not apply here.

Finally, the defendants seek sanctions pursuant to Federal Rule of civil Procedure 11, but they have not Demonstrated compliance with the safe harbor provision of that Rule. No sanctions will be imposed.

An Order will be entered.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.

App 5

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 09-4509

KENNETH J TAGGART,
Appellant,

v.

CHASE BANK USA, N.A.;JP MORGAN CHASE BANK,
d/b/a CHASE HOME FINANCE, LLC

(D.C. Civil No. 2:09-cv-03761)

Present: McKEE, Chief Judge, SLOVITER, SCRICA, AMBRO, FUENTES, SMITH, FISHER, CHAGARES, JORDAN, and VANASIE, Circuit Judges

SUR PETITION FOR *EN BANC* REHEARING

The petition for rehearing refilled by Appellant having who participated in the decision of this Court, and to all the other available circuit judges in active service, and no judge

who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court *en banc, the petition for rehearing is DENIED.*

By the Court,

/s/ Thomas L. Ambro
Circuit Judge

Dated: June 14,2010

Cc: Mr. Kenneth J Taggart
Robert L. Byer, Esq.
Sheila R. Wiggins, Esq.

App 7

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 09-4509

KENNETH J TAGGART,
Appellant,

v.

CHASE BANK USA, N. A.;JP MORGAN CHASE BANK,
d/b/a CHASE HOME FINANCE, LLC

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil No. 2:09-cv-03761)
District Judge: Honorable John P. Fullam

Submitted for Possible Summary Action Pursuant to
Third Circuit LAR 27.4 and I.O.P. 10.6
March 25,2010

Before: SLOVITER, AMBRO AND SMITH,
Circuit Judges

JUDGEMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted for possible dismissal pursuant to 28 U.S.C. 1915(e)(2)(B) or summary action pursuant to third circuit LAR 27.4 and I.O.P. 10.6 on March 25,2010. On consideration whereof, it is now hereby

ORDERED and AJUDGED by this Court that the judgment of the District Court entered October 29,2009, be and the same is hereby affirmed. All of the above in accordance with the opinion of this Court.

ATTEST:

Marcia M. Waldron
Clerk

Dated: April 14,2010

App 9

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 09-4509

KENNETH J TAGGART,
Appellant,

v.

CHASE BANK USA, N. A.;JP MORGAN CHASE BANK,
d/b/a CHASE HOME FINANCE, LLC

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil No. 2:09-cv-03761)
District Judge: Honorable John P. Fullam

Submitted for Possible Summary Action Pursuant to
Third Circuit LAR 27.4 and I.O.P. 10.6
March 25,2010

Before: SLOVITER, AMBRO AND SMITH,
Circuit Judges

(filed: April 14,2010)

OPINION

PER CURIAM

Kenneth J Taggart appeals pro se from a District Court order dismissing his action with prejudice s barred by res judicata. For the reasons below, we will affirm.

On March 5,2009, Taggart initiated an action in state court asserting violations of the Truth In Lending Act ("TILA") regarding his mortgage closing on July 20,2005. Appellees removed this to federal court and filed a motion to dismiss on the grounds that Taggart's TILA claims were time-barred and not actionable. The District Court agreed and dismissed Taggart's complaint with prejudice. This Court affirmed. Taggart v. Chase Bank USA N.A., No. 09-3067,2009 WL 4193609 (3rd Cir. Nov 27,2009).

On July 17,2009, Taggart filed a second action in

state court regarding the same July 20,2005 mortgage closing at issue in his March 2009 complaint. This second complaint involved seventeen claims, including claims brought under TILA, as well as the Fair Credit Reporting Act, the Real Estate Settlement Procedures Act("RESPA"), And the Fair Debt Collections Practices Act. Appellees moved this case to federal court and filed a motion to dismiss pursuant to Rule 12(b)(6). The District Court granted the motion, finding that although Taggart asserted different causes of action, both lawsuits concerned the same mortgage and loan transaction. Because these causes of action could have been raised in the first complaint, the second complaint was barred by res judicata. The court dismissed with prejudice. Taggart timely appealed. Appellees filed a motion for summary action and Taggart filed an opposition. In his opposition, Taggart concedes that he filed a second Complaint regarding the July 20, 2005 mortgage closing.

However, he argues that "Counts 15,16 & 17 occurred after the original complaint was filed," and were unknown "at the original complaint was filed." Taggart also contends that the District Court denied him opportunity to amend his original complaint to include these violations, and cites to another case pending in federal court in which he was permitted to do so.

We have jurisdiction under 28 U.S.C. 1291. We summarily affirm if Taggart's appeal presents no substantial question. See 3d Cir. L.A.R. 27.4 and 3rd Cir. I.O.P. 10.6. The court granted defendants' motion to dismiss under Fed. R. Civ. P. 12(6)(b). Thus, we accept as true all factual allegations in the complaint and all reasonable inferences that can be drawn from them. Lubrizol Corp. v. Exxon Corp., 929 F. 2nd 960,962 (3rd Cir 1991). A district court's applica-Tion of the doctrine of res judicata is a question of law Which we exercise plenary review. See Jean Alexander

Cosmetics, Inc. v L' Oreal USA, Inc., 458 F. 3rd 244, 248 (3d Cir 2006).

The doctrine of res judicata "gives dispositive effect to a prior judgment if a particular issue, although not litigated , could have been raised in the earlier proceeding." CoreStates Bank, N.A. v. Huls Am., Inc., 176 F3d 187,194 (3d Cir.1999) (emphasis in original) (internal citation omitted). The doctrine bars a suit where three circumstances are present: "(1) a final judgment on the merits in a prior suit involving (2) the same parties or their privies and (3) a subsequent suit based on the same cause of action." Lubrizol Corp, 929 F. 2nd at 963. A dismissal on statute of limitations Grounds is a dismissal on the merits for res judicata purposes. See Elkadrawy v. Vangard Group, Inc., 584 F. 3d 169, 173 (3d Cir. 2009) (citing Plaut v. Spendtrift Farm, Inc., 514 U.S. 211,228 (1995)).

Here, Taggart filed his second complaint after

receiving a final judgment on the merits dismissing his first complaint as time-barred per the statute of limitations under TILA. Elkadrawy, 584 F.3d at 173. Taggart does not dispute that both complaints involve the same July 20,2005 mortgage and are against the same defendants, Chase and JP Morgan Chase Bank N.A. d/b/a Chase Home Finance, LLC. Lubrizol Corp., 929 F. 2d at 963. As Appellees argue, the thrust of the two complaints is the same, as Taggart seeks redress for allegedly wrongful conduct in connection with the same underlying event, the July 20,2005 mortgage. Corestates, 176 F3d at 194. Even though his second complaint relies on new violations and different legal theories under the Fair Credit Reporting Act, the Real Estate Settlement Procedures Act ("RESPA"), and the Fair Debt Collections Practices Act, Taggart is merely is merely attempting to split a cause of action, which he is not permitted to do. See Churchhill v. Star Enters., 183 F. 3d 184, 194-95

(3d Cir. 1999). Thus, Taggart's second complaint was Properly dismissed.

Taggart's argues that his second complaint should not be barred because he was not given the opportunity to amend his first complaint. See Grayson v. Mayview State Hosp., 293 F.3d 103,108 (3d cir.2002)(a federal court must Inform a plaintiff that he has leave to amend when dismiss-sing for failure to state claim, unless amendment would be futile). To the extent that Taggart attempts to relitigate the District Court's decision as it pertains to his first complaint, we cannot reconsider the argument in this instant appeal, as we have already affirmed the District court's decision.

Even if we were to consider Taggart's argument, it is unavailing. In reviewing the docket from Taggart's first complaint, on May 5,2009, the District Court ordered Taggart to demonstrate why his TILA action was not time-barred. See Order at 6, Taggart v. Chase Bank USA,N.A.

et al, No. 09-cv-1533, (E.D. Pa may 5, 2009). Taggart filed responses on May 28,2009, but did not address or seek leave to include claims Fifteen, sixteen, and seventeen. He argues that the violations that formed the basis for these claims were not known to him at the time he filed his complaint in March 2009. Yet in his second complaint, Taggart identifies six months from February 2009 through July 2009 – in which he argues that the defendants violated the Fair Credit reporting Act, RESPA, and the Fair Debt Collections Practices Act. Given that he knew s early as February 2009 and had until May 2009 to bring these new Claims and supporting facts, he is barred from filing a second complaint with claims that could have been brought in the earlier proceeding. In re Mullarkey, 536 F.3d 215, 225 (3d Cir 2008).

Accordingly, we will affirm the District Court's dismissal.